

STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
SECURITIES DIVISION

IN THE MATTER OF DETERMINING  
Whether there has been a violation  
of the Securities Act of Washington by:

ALPHA TELCOM, INC.; AMERICAN  
TELECOMMUNICATIONS COMPANY, INC.;  
KELLEY W. ABBOTT; WILFRID ALVAREZ;  
JACK CHANDLER; DANIEL CURTIN;  
THOMAS DURSO; ROY GRADY; HANS  
LORENTZEN; FAY L. MOYER; GLEN  
OTTMAR; DIRK PETERSON; FREDERICK  
WEATHERBEE; their agents and employees,

Respondents.

SDO - 9 - 02

STATEMENT OF CHARGES AND NOTICE OF  
INTENTION TO ENTER ORDER TO CEASE  
AND DESIST, NOTICE OF INTENT TO  
SUSPEND OR REVOKE SECURITIES  
SALESPERSON REGISTRATION, AND NOTICE  
OF INTENT TO IMPOSE FINES AND ORDER  
AFFIRMATIVE RELIEF

Case No. 99-07-0220

THE STATE OF WASHINGTON TO:

Alpha Telcom, Inc.  
2751 Highland Ave.  
Grants Pass, OR 97256

American Telecommunications Company, Inc.  
942 S.W. 6<sup>th</sup> Street #G  
Grants Pass, OR 97256

Kelley W. Abbott  
Wilfrid Alvarez  
Jack Chandler  
Daniel Curtin, CRD #1471333  
Thomas Durso  
Roy Grady, CRD #1697841  
Hans Lorentzen  
Fay L. Moyer  
Glen Ottmar  
Dirk Peterson, CRD #4242106  
Frederick Weatherbee

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## STATEMENT OF CHARGES

Please take notice that the Securities Administrator of the state of Washington has reason to believe that Alpha Telcom, Inc., American Telecommunications Company, Inc., Kelley W. Abbott, Wilfrid Alvarez, Jack Chandler, Daniel Curtin, Thomas Durso, Roy Grady, Hans Lorentzen, Fay L. Moyer, Glen Ottmar, Dirk Peterson, and Frederick Weatherbee, have violated the Securities Act of Washington and that their violations justify the entry of an order of the Securities Administrator to cease and desist from such violations, ordering restitution, and imposing fines pursuant to RCW 21.20.390 and RCW 21.20.395. The Securities Administrator further believes that these violations justify the entry of an order against Respondents Curtin, Grady, and Peterson suspending or revoking their securities registrations and imposing fines pursuant to RCW 21.20.110. The Securities Administrator finds as follows:

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## TENTATIVE FINDINGS OF FACT

### I. Respondents

1. **ALPHA TELCOM** ("Alpha") is an Oregon corporation with a last known business address of 2751 Highland Ave., Grants Pass, Oregon.
2. **AMERICAN TELECOMMUNICATIONS COMPANY, INC.** ("ATC") is a Nevada corporation with a last known business address of 942 S.W. 6<sup>th</sup> Street #G, Grants Pass, Oregon.
3. **KELLEY W. ABBOTT** ("Abbott"), while acting as an agent for Alpha and ATC, offered and sold public telephones and telephone service agreements to at least one person during the investment offering, as described below in Section II. Abbott's license to sell insurance was revoked by the Washington state Office of the Insurance Commissioner in September of 1999. Abbott resides in Spokane, Washington.

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1           4.     **WILRID ALVAREZ** (“Alvarez”), while acting as an agent for Alpha and ATC, offered and sold  
2 public telephones and telephone service agreements to at least one person during the investment offering, as  
3 described below in Section II. Alvarez is a Washington state licensed insurance agent and resides in Port Orchard,  
4 Washington.

5           5.     **JACK CHANDLER** (“Chandler”), while acting as an agent for Alpha and ATC, offered and sold  
6 public telephones and telephone service agreements to at least ten persons during the investment offering, as  
7 described below in Section II. Chandler is a Washington state licensed insurance agent and resides in Edmonds,  
8 Washington.

9           6.     **DANIEL CURTIN** (“Curtin”), while acting as an agent for Alpha and ATC, offered and sold  
10 public telephones and telephone service agreements to at least three persons during the investment offering, as  
11 described below in Section II. Curtin is currently licensed as a securities salesperson in the state of Washington.  
12 Curtin is also a Washington state licensed insurance agent and resides in Olympia, Washington.

13           7.     **THOMAS DURSO** (“Durso”), while acting as an agent for Alpha and ATC, offered and sold  
14 public telephones and telephone service agreements to at least eleven persons during the investment offering, as  
15 described below in Section II. Durso resides in Bellevue, Washington.

16           8.     **ROY GRADY** (“Grady”), while acting as an agent for Alpha and ATC, offered and sold public  
17 telephones and telephone service agreements to at least two persons during the investment offering, as described  
18 below in Section II. Grady is currently licensed as a securities salesperson in the state of Washington. Grady is  
19 also a Washington state licensed insurance agent and resides in Bellingham, Washington.

20           9.     **HANS LORENTZEN** (“Lorentzen”), while acting as an agent for Alpha and ATC, offered and  
21 sold public telephones and telephone service agreements to at least four persons during the investment offering, as

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described below in Section II. Lorentzen is a Washington state licensed insurance agent and resides in Bellingham, Washington.

10. **FAY L. MOYER** (“Moyer”), while acting as an agent for Alpha and ATC, offered and sold public telephones and telephone service agreements to at least eleven persons during the investment offering, as described below in Section II. Moyer is a Washington state licensed insurance agent and resides in Omak, Washington.

11. **GLEN OTTMAR** (“Ottmar”), while acting as an agent for Alpha and ATC, offered and sold public telephones and telephone service agreements to at least thirteen persons during the investment offering, as described below in Section II. Ottmar is a Washington state licensed insurance agent and resides in Bellevue, Washington.

12. **DIRK PETERSON** (“Peterson”), while acting as an agent for Alpha and ATC, offered and sold public telephones and telephone service agreements to at least four persons during the investment offering, as described below in Section II. Peterson is currently licensed as a securities salesperson in the state of Washington. Peterson is also a Washington state licensed insurance agent and resides in Bellevue, Washington.

13. **FREDERICK WEATHERBEE** (“Weatherbee”), while acting as an agent for Alpha and ATC, offered and sold public telephones and telephone service agreements to at least eight persons during the investment offering, as described below in Section II. Weatherbee is a Washington state licensed insurance agent and resides in Spokane, Washington.

## **II. Nature of the Offering**

### **A. Prior Litigation History**

14. Alpha and ATC have been the subject of several actions brought by securities regulators throughout the country, including the Pennsylvania Securities Commission, the North Carolina Securities Division, the Illinois

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Securities Department, the South Carolina Securities Department, the Wisconsin Department of Financial Institutions, the Rhode Island Department of Business Regulations, the Florida Department of Banking and Finance, the California Department of Corporations, the Ohio Department of Commerce, the Missouri Secretary of State, and the Arkansas Securities Department. None of these actions were disclosed to Washington investors.

15. The United States District Court for the District of Oregon, at the request of the United States Securities and Exchange Commission, issued a preliminary injunction on September 6, 2001 against Alpha Telecom, Inc., American Telecommunications Company, Inc., and various other persons restraining those defendants from committing securities fraud in violation of the Securities Act of 1933 and the Securities Exchange Act of 1934. The preliminary injunction also continued an asset freeze contained in the temporary restraining order issued previously by the court on August 27, 2001.

#### **B. Summary of Offering**

16. From at least December of 1998 through at least May of 2001, Respondents acting in concert, on behalf of one another, and/or acting through their sales agents, offered and sold public telephones and telephone service agreements to at least 100 Washington residents.

17. Abbott, Alvarez, Chandler, Curtin, Durso, Grady, Lorentzen, Moyer, Ottmar, Peterson, and Weatherbee entered into agreements with Alpha and ATC, whereby each agreed to sell public telephones and telephone service agreements on behalf of Alpha and ATC. Alpha and ATC agreed to compensate each agent on a commission basis based on the number of telephones sold by the agent.

18. The public telephones and telephone service agreements offered to Washington residents were sold at a cost of \$4,000 to \$5,000 per telephone. Under the terms of the telephone service agreement, Alpha undertook to perform certain duties on behalf of the investor, including but not limited to collecting revenue from the phones,

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as well as servicing, repairing, and administering the phones. The agreement provides that an investor receives 30% of the adjusted gross revenue generated by the phones, or the monthly base amount, whichever is greater. The monthly base amount is \$46.67 per \$4,000 phone purchased, and \$58.34 per \$5,000 phone purchased. These monthly base amounts equate to a 14% annual return.

19. In connection with the offer and sale of public telephones and telephone service agreements, some of the investors were provided promotional materials that described the payphone investments as providing higher yields than certificates of deposit. The promotional materials state that “payphones are not as safe as CD’s, but are a safe business.” Agents touted the typical return on investment as 14% annually.

20. At least 100 Washington residents invested a total of at least \$3,922,000 in public telephones and telephone service agreements through Alpha and ATC.

21. In connection with the offer and sale of public telephones and telephone service agreements, Respondents failed to provide material information regarding Alpha and ATC during the investment offering, including, but not limited to: (1) information about the use of investor proceeds, such as the costs to purchase public telephones and the amounts paid to Alpha, ATC, agents, and others; (2) the risks of the investment (3) the financial condition and financial statements of Alpha and ATC; and (4) the basis for the representations made to investors of a 14% annual investment return.

### **III. Registration Status**

22. Alpha, ATC, Abbott, Alvarez, Chandler, Curtin, Durso, Grady, Lorentzen, Moyer, Ottmar, Peterson, and Weatherbee are not currently registered to offer or sell its securities in the state of Washington and have not previously been so registered.

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23. Alpha, ATC, Abbott, Alvarez, Chandler, Durso, Lorentzen, Moyer, Ottmar and Weatherbee are not currently registered as securities salespersons or broker-dealers in the state of Washington. Alvarez was registered in the state of Washington as a securities salesperson from September 1998 to August 2001. Lorentzen was registered in the state of Washington as a securities salesperson from February 1994 to December 1998. Ottmar was registered in the state of Washington as a securities salesperson from May 1983 to June 1993.

24. Curtin (CRD #1471333) is currently registered as a securities salesperson in the state of Washington with Allstate Financial Services, LLC.

25. Grady (CRD #1697841) is currently registered as a securities salesperson in the state of Washington with Allstate Financial Services, LLC.

26. Peterson (CRD #4242106) is currently registered as a securities salesperson in the state of Washington with Prime Capital Services, LLC.

Based upon the above Tentative Findings of Fact, the following Conclusions of Law are made:

## CONCLUSIONS OF LAW

### I. Securities

The offer and/or sale of public telephones and telephone service agreements described above constitutes the offer and/or sale of a security as defined in RCW 21.20.005(10) and (12), to wit: an investment contract; or risk capital.

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1 **II. Violation of RCW 21.20.010**

2 The offer and/or sale of said securities was made in violation of RCW 21.20.010 because Respondents made  
3 untrue statements of material fact and/or omitted to state material facts necessary in order to make the statements  
4 made, in light of the circumstances under which they were made, not misleading.

5 **III. Violation of RCW 21.20.140**

6 The offer and/or sale of said securities is in violation of RCW 21.20.140 because no registration for such  
7 offer and/or sale is on file with the Securities Administrator of the state of Washington.

8 **IV. Violation of RCW 21.20.040**

9 Respondents Alpha, ATC, Abbott, Alvarez, Chandler, Durso, Lorentzen, Moyer, Ottmar and Weatherbee  
10 have violated RCW 21.20.040 by offering said securities while not being registered as broker-dealers or securities  
11 salespersons in the state of Washington.

12 **NOTICE OF INTENTION TO ORDER RESPONDENTS TO CEASE AND DESIST**

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14 Based upon the above Tentative Findings of Fact and Conclusions of Law, the Securities Administrator intends  
15 to order that Respondents Alpha Telcom, Inc., American Telecommunications Company, Inc., Kelley W. Abbott,  
16 Wilfrid Alvarez, Jack Chandler, Daniel Curtin, Thomas Durso, Roy Grady, Hans Lorentzen, Fay L. Moyer, Glen  
17 Ottmar, Dirk Peterson, and Frederick Weatherbee, and their agents and employees, each permanently cease and  
18 desist from violations of RCW 21.20.010, RCW 21.20.140, and RCW 21.20.040.

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1                                   **NOTICE OF INTENT TO SUSPEND OR REVOKE REGISTRATION**

2                   Pursuant to RCW 21.20.110(1), and based upon the above Tentative Findings of Fact and Conclusions of  
3 Law, the Securities Administrator intends to order that the securities salesperson registration of Respondents  
4 Curtin, Grady, and Peterson be suspended or revoked.

5                                   **NOTICE OF INTENT TO IMPOSE FINES**

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7                   Based upon the offers and sales of unregistered securities to Washington residents, by registered and  
8 unregistered broker-dealers and/or salespersons, the misrepresentations and omissions contained in those offers and  
9 sales, and upon the above Tentative Findings of Fact and Conclusions of Law, the Securities Administrator finds that  
10 one or more knowing or reckless violations of the Securities Act have occurred such that the imposition of fines is  
11 appropriate pursuant to RCW 21.20.110(3) and/or RCW 21.20.395. Therefore, the Securities Administrator intends to  
12 order that Respondents Alpha Telcom, Inc. and American Telecommunications Company, Inc. shall be jointly and  
13 severally liable for and pay a fine in an amount not to exceed \$500,000. Furthermore, the Securities Administrator  
14 intends to order that:

- 15                   a.     Respondent Kelley W. Abbott be liable for and pay a fine in an amount not to exceed \$5,000.
- 16                   b.     Respondent Wilfrid Alvarez be liable for and pay a fine in an amount not to exceed \$5,000.
- 17                   c.     Respondent Jack Chandler be liable for and pay a fine in an amount not to exceed \$50,000.
- 18                   d.     Respondent Daniel Curtin be liable for and pay a fine in an amount not to exceed \$15,000.
- 19                   e.     Respondent Thomas Durso be liable for and pay a fine in an amount not to exceed \$55,000.
- 20                   f.     Respondent Roy Grady be liable for and pay a fine in an amount not to exceed \$10,000.
- 21                   g.     Respondent Hans Lorentzen be liable for and pay a fine in an amount not to exceed \$20,000.
- 22                   h.     Respondent Fay L. Moyer be liable for and pay a fine in an amount not to exceed \$55,000.

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- 1 i. Respondent Glen Ottmar be liable for and pay a fine in an amount not to exceed \$65,000.
- 2 j. Respondent Dirk Peterson be liable for and pay a fine in an amount not to exceed \$20,000.
- 3 k. Respondent Frederick Weatherbee be liable for and pay a fine in an amount not to exceed \$40,000.

4 **NOTICE OF INTENT TO ORDER AFFIRMATIVE RELIEF**

5 Pursuant to RCW 21.20.390, and based upon the above Tentative Findings of Fact and Conclusions of

6 Law, the Securities Administrator intends to order that Respondents shall be jointly and severally liable for and

7 shall provide appropriate affirmative relief, including, without limitation, a requirement to provide full restitution

8 to all Washington investors in an amount not to exceed \$3,922,000.

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10 **AUTHORITY AND PROCEDURE**

11 This Order is entered pursuant to the provisions of RCW 21.20.110, RCW 21.20.390, and RCW 21.20.395

12 and is subject to the provisions of RCW 21.20.120 and Chapter 34.05 RCW. Each of the Respondents may make a

13 written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND

14 OPPORTUNITY FOR HEARING accompanying this Order.

15 If a Respondent does not request a hearing, the Securities Administrator intends to adopt the foregoing

16 Tentative Findings of Fact and Conclusions of Law as final, and enter a permanent cease and desist order against

17 that Respondent imposing the license suspension or revocation, restitution, and/or fines described above.

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19 DATED this 29th day of January, 2002.

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DEBORAH R. BORTNER  
Securities Administrator

Approved by:

Presented by:

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Michael E. Stevenson  
Chief of Enforcement

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Chad Standifer  
Staff Attorney

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